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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/713,328	11/13/2003	Stephan S. Porter	47168-00297USPT	9892
30223	7590	11/14/2007	EXAMINER	
NIXON PEABODY LLP			WILSON, JOHN J	
161 N. CLARK STREET			ART UNIT	
48TH FLOOR			PAPER NUMBER	
CHICAGO, IL 60601-3213			3732	
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			11/14/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/713,328

Applicant(s)

PORTER ET AL.

Examiner

John J. Wilson

Art Unit

3732

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 13 October 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-6,9-11,13-16,19-23,25,26,28-32 and 41-45 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-6,9,10,20-23,25,26 and 28-32 is/are allowed.
- 6) ☒ Claim(s) 11,13-16,19 and 41-45 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Notice of Informal Patent Application
- ☐ Other: \_\_\_\_\_

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 14-16, 19, 41-43 and 45 are rejected under 35 U.S.C. 102(b) as being anticipated by Sutter (6227859). Sutter shows an abutment 801, Figs. 18 and 21, a retention screw 601, post 220, stem 210, feedback feature at 212, 215 comprising a plurality of resilient fingers as shown, non-round anti-rotation feature at 215, the plurality of fingers located on a diameter that is greater than the diameter of a section of the stem immediately above, see Figs. 18 and 21 and 463 of Fig. 13, and through bore as shown. The shown structure is inherently capable of functioning as a feedback feature. As to claim 16, see element 235. As to claim 19, the shown structure is inherently capable of producing a sound depending on its intended use.

Claims 41-45 are rejected under 35 U.S.C. 102(b) as being anticipated by Klardie et al (5782918). Klardie shows an abutment 42, post extending down therefrom as shown, a plurality of resilient fingers as shown, intermediate wall at 60, non-round section at 51, a greater diameter at 61 and through bore 81. The resilient fingers provide for a snap fit, column 2, lines 58-60 and column 5, lines 15-20, and as such, inherently comprise a feedback feature. As to claim 42, see slots 70.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 11 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sutter (6227859) in view of Zickmann et al (6726481) and Rogers et al (6394809). Sutter shows an implant 110, Fig. 6, interior feedback feature 116, (this is proper to call a feedback feature because it is capable of functioning as claimed by stopping the insertion of the abutment when used together), first tapered section 114 and second anti-rotation feature 115 that is distal to the tapered portion 114. Sutter does not show the tapered section being an anti-rotation feature. Zickmann teaches using first and second anti-rotation features, column 7, line 55 through column 8, line 22, the second anti-rotation feature being a tapered surface, while Rogers teaches it is known to locate taper locking surfaces internally. It would be obvious to one of ordinary skill in the art that the tapered surface of Sutter will provide a lock and anti-rotation feature, at least to some degree, as suggested by Zickmann, and It would be obvious to one of ordinary skill in the art to modify Sutter to include a taper lock as shown by Zickmann that can be located internally as suggested by Rogers in order to better hold the abutment against rotation.

***Allowable Subject Matter***

Claims 1-6, 9, 10, 20-23, 25, 26 and 28-32 are allowed.

***Response to Arguments***

Applicant's arguments filed October 3, 2007, 2007 have been fully considered but they are not persuasive. Sutter does show an intermediate wall as pointed out above.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John J. Wilson whose telephone number is 571-272-4722. The examiner can normally be reached on Monday through Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cris Rodriguez, can be reached at 571-272-4964. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

***/John J Wilson/  
Primary Examiner  
Art Unit 3732***

jw  
November 5, 2007